HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.4736 of 2005

Date of decision 05.12.2006

Randhir Singh

...Petitioner

Versus

Rajbir Singh and ors.

...Respondents

Coram: Hon'ble Mr.Justice Hemant Gupta

Present: Mr.Sanjeev Gupta, Advocate
for the petitioner
Mr.Ashish Aggarwal, Advocate
for respondent No.3.

JUDGMENT

HEMANT GUPTA, J.(Oral)

The plaintiff is in revision petition aggrieved against the orders passed by the Courts below, whereby an application filed by the petitioner for rejection of counter-claim raised by defendant No.3, was dismissed. The plaintiff has filed the suit for permanent injunction against defendant Nos.1 and 2. The defendant No.3 earlier moved an application for impleading as defendant which was allowed. In the written statement, the defendant has filed counter-claim injunction against the plaintiff and defendant Nos.1 and 2. The said counter-claim was sought to be rejected by the plaintiff by moving an application which was dismissed by the order impugned in the present revision petition.

The argument that the counter-claim does not disclose any cause of action cannot be examined at

this stage. Cause of action is bundle of facts which requires to be examined by the court after the evidence is led. At this stage, there is no material on record to hold that such a counter claim is without jurisdiction.

In view of the above, I do not find any illegality or irregularity in the orders passed by the learned trial court that the counter-claim is maintainable. It shall be open to the petitioner to raise all his pleas in respect of maintainability or justifiability of the counter-claim before the learned trial court.

The petition is dismissed.

(**HEMANT GUPTA**)
JUDGE

05.12.2006
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